

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

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NOBLE WILLIAMS,

Case No. 3:20-cv-00667-RFB-CSD

v.

Plaintiff,

C. DANIELS, *et al.*,**ORDER**

Defendants.

Plaintiff Noble Williams brings this civil-rights action under 42 U.S.C. § 1983 to redress constitutional violations that he claims he suffered while incarcerated. ECF No. 11. On April 18, 2023, this Court ordered Plaintiff to file an application to proceed in forma pauperis for non-prisoners or pay the full \$402 filing fee within 30 days. ECF No. 12 at 7. The Court warned Plaintiff that the action could be dismissed if he failed to file an application to proceed in forma pauperis for non-prisoners or pay the full filing fee of \$402 by that deadline. *Id.* That deadline expired and Plaintiff did not file an application to proceed in forma pauperis for non-prisoners, pay the full \$402 filing fee, or otherwise respond. The Court permitted this case to proceed to its scheduled inmate early mediation conference. ECF No. 17. However, Plaintiff did not appear and has made no contact with the Court. *Id.*

I. DISCUSSION

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. Thompson v. Hous. Auth. of City of Los Angeles, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action based on a party’s failure to obey a court order or comply with local rules. See Carey v. King, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); Malone v. U.S. Postal

1 Service, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order). In
 2 determining whether to dismiss an action on one of these grounds, the Court must consider: (1)
 3 the public's interest in expeditious resolution of litigation; (2) the Court's need to manage its
 4 docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of
 5 cases on their merits; and (5) the availability of less drastic alternatives. See In re
 6 Phenylpropanolamine Prod. Liab. Litig., 460 F.3d 1217, 1226 (9th Cir. 2006) (quoting Malone,
 7 833 F.2d at 130.

8 The first two factors, the public's interest in expeditiously resolving this litigation and the
 9 Court's interest in managing its docket, weigh in favor of dismissal of Plaintiff's claims. The third
 10 factor, risk of prejudice to defendants, also weighs in favor of dismissal because a presumption of
 11 injury arises from the occurrence of unreasonable delay in filing a pleading ordered by the court
 12 or prosecuting an action. See Anderson v. Air West, 542 F.2d 522, 524 (9th Cir. 1976). The fourth
 13 factor—the public policy favoring disposition of cases on their merits—is greatly outweighed by
 14 the factors favoring dismissal.

15 The fifth factor requires the Court to consider whether less drastic alternatives can be used
 16 to correct the party's failure that brought about the Court's need to consider dismissal. See Yourish
 17 v. Cal. Amplifier, 191 F.3d 983, 992 (9th Cir. 1999) (explaining that considering less drastic
 18 alternatives *before* the party has disobeyed a court order does not satisfy this factor); accord
 19 Pagtalunan v. Galaza, 291 F.3d 639, 643 & n.4 (9th Cir. 2002) (explaining that “the persuasive
 20 force of” earlier Ninth Circuit cases that “implicitly accepted pursuit of less drastic alternatives
 21 prior to disobedience of the court’s order as satisfying this element[,]” i.e., like the “initial granting
 22 of leave to amend coupled with the warning of dismissal for failure to comply[,]” have been
 23 “eroded” by Yourish). Courts “need not exhaust every sanction short of dismissal before finally
 24 dismissing a case but must explore possible and meaningful alternatives.” Henderson v. Duncan,
 25 779 F.2d 1421, 1424 (9th Cir. 1986). Because this action cannot realistically proceed until and
 26 unless Plaintiff either files a fully complete application to proceed in forma pauperis for non-
 27 prisoners or pays the \$402 filing fee for a civil action, the only alternative is to enter a second order
 28 setting another deadline. But the reality of repeating an ignored order is that it often only delays

1 the inevitable and squanders the Court's finite resources. The circumstances here do not indicate
2 that this case will be an exception: there is no hint that Plaintiff needs additional time or evidence
3 that he did not receive the Court's order. Additionally, Plaintiff has made no attempt to comply
4 with any of the Court's other orders, including mediation. Setting another deadline is not a
5 meaningful alternative given these circumstances. So the fifth factor favors dismissal.

6 **II. CONCLUSION**

7 Having thoroughly considered these dismissal factors, the Court finds that they weigh in
8 favor of dismissal.

9 IT IS THEREFORE ORDERED that this action is dismissed without prejudice based on
10 Plaintiff's failure to file an application for in forma pauperis for non-prisoners or pay the full \$402
11 filing fee in compliance with this Court's April 18, 2023, order. The Clerk of Court is directed to
12 enter judgment accordingly and close this case. No other documents may be filed in this now-
13 closed case. If Plaintiff wishes to pursue his claims, he must file a complaint in a new case.

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DATED: January 19, 2024

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18 RICHARD F. BOULWARE, II
19 UNITED STATES DISTRICT JUDGE
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